

The Honorable Karen A. Overstreet
Chapter 11
Hearing Date: December 6, 2013
Hearing Time: 9:30 am

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In Re

CLI HOLDINGS, INC. dba ALYDIAN

Debtor.

Case No. 13-19746-KAO

**OBJECTION TO DEBTORS'
MOTION TO REJECT
EXECUTORY CONTRACTS**

Soule Investments, LLC ("Soule"), by and through its undersigned counsel, hereby files this Objection ("Objection") to Debtor's Motion to Reject Executory Contracts (Dkt. No. 12) ("Motion"), specifically as to the Bitcoin Services Agreement attached as Exhibit E thereto (which exhibit was replaced as provided in an Amended Declaration of Peter Vessenes in Support of Motion to Reject Executory Contracts, Dkt. No. 22) ("Soule Agreement"), which contract is listed as "Presale Service Agreements."

The Court should deny the Motion because the Soule Agreement is not an executory contract. This Objection is supported by the Declaration of John Zwick in Support of Soule Investment's Objection to Motion to Reject Executory Contracts.

In support of this Objection, Soule states as follows:

I. BACKGROUND

The Soule Agreement requires Debtor to employ commercially reasonable efforts to mine

1 and deliver bitcoins. At the time of Debtor's filing of its bankruptcy, Soule had performed its
2 obligations under the Soule Agreement. However Debtor had not performed its obligations.

3 II. ARGUMENT AND AUTHORITY

4 The Motion should be denied because the Soule Agreement is not an executory contract
5 and is therefore cannot be rejected by the Debtor.

6 Debtor's motion cites *In re Coast Trading* as the proper judicial test to determine whether
7 a contract is executory and may be rejected. Under the case relied upon by Debtor, an executory
8 contract is one "under which the obligations of both the bankrupt and the other party to the
9 contract are so far unperformed [at the date of filing] that the failure of either to complete
10 performance would constitute a material breach excusing the performance of the other." *In re*
11 *Coast Trading Company, Inc.*, 744 F.2d 686, 692 (9th Cir. 1984). The Soule Agreement is a
12 contract that has been fully executed and performed by Soule at the time of filing; and the only
13 continuing obligations under that contract are on one side, with the Debtor. Soule's only
14 obligation under the Soule Agreement was to pay Debtor. These payments had already been
15 paid in full when the Debtor filed its bankruptcy petition.

16 At the time of the Debtor's filing, Soule had performed all of the obligations called for by
17 the Soule Agreement. As a result, the Soule Agreement is not an executory contract.

18 III. CONCLUSION

19 Based on the foregoing, Soule respectfully requests that the Court deny Debtor's Motion
20 to Reject Executory Contracts as such Motion applies to Soule.
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1 DATED this 27th day of November, 2013.

2 RIDDELL WILLIAMS P.S.

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4 By /s/ Robert N. Amkraut

5 Robert N. Amkraut, WSBA #27412
6 Daniel S. Friedberg, WSBA #28417
7 Attorneys for Soule Investments, LLC
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